

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BAVARIAN NORDIC A/S,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 05-614 (SLR)
)	
ACAMBIS INC. and)	
ACAMBIS, PLC,)	
)	
Defendants.)	
)	

JOINT MOTION TO EXTEND FACT AND EXPERT DISCOVERY

Plaintiff Bavarian Nordic A/S (“Bavarian Nordic”), and Defendants Acambis Inc. and Acambis plc (“Defendants” or “Acambis”), by and through counsel, hereby jointly seek a limited extension of fact and expert discovery to complete on-going discovery.

The parties reserve the right to seek additional discovery by motion or stipulation by the parties, particularly if the parties’ proposed amendments to the pleadings, including Bavarian Nordic’s proposed addition of Anton Mayr as a plaintiff (see D.I. 38) and Defendants’ proposed counterclaims against Bavarian Nordic (see D.I. 35), are granted.

In support of this joint motion, the parties state as follows:

1. Pursuant to the scheduling order entered by the Court on October 26, 2005 (D.I. 20), fact discovery is scheduled to close on August 14, 2006, opening expert reports are scheduled to be served on September 7, 2006, rebuttal reports are due October 5 and expert discovery is scheduled to be completed on November 3, 2006.

2. The parties have served additional written discovery due on August 14, 2006, and have each noticed depositions and served third-party discovery.

3. In order to complete the depositions noticed, and any deposition(s) warranted by forthcoming discovery, taking into account written discovery served to date, and to take any necessary third-party discovery, the parties seek an extension of the fact discovery deadline from August 14 to September 21 for the limited purpose of completing depositions noticed and any deposition(s) warranted by forthcoming discovery, and to take third-party discovery.

4. The parties also seek an extension of expert discovery dates to take into account the expanded fact discovery period. In this regard, the parties request roughly a one-month extension of expert report dates and slightly less than a three-week extension of the completion date for expert discovery. Thus, opening expert reports would be due on October 2, 2006, rebuttal expert reports would be due on November 1, 2006 and the expert discovery completion date would be November 22, 2006.

5. The schedule changes proposed are limited to fact and expert discovery deadlines and do not alter any other scheduled dates in the October 26, 2005 scheduling order (D.I. 20).

WHEREFORE, the parties respectfully request that the October 26, 2005 scheduling order (D.I. 20) be modified as follows:

- A. Depositions noticed to date, any deposition(s) warranted by forthcoming discovery, and third-party discovery shall be completed prior to September 21, 2006.
- B. Opening expert reports shall be due October 2, 2006
- C. Rebuttal expert reports shall be due November 1, 2006
- D. Expert discovery shall be completed by November 22, 2006.

Dated: August 14, 2006

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Karen L. Pascale, Esquire, hereby certify that on August 14, 2006, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

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I further certify that on August 14, 2006, I caused a copy of the foregoing document to be served on the above-listed counsel and on the following non-registered participants in the manner indicated:

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